

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

BARRY SEIDEL

CIVIL ACTION NO. 06-0903

versus

JUDGE HICKS

DERREL GRAHAM, ET AL.

MAGISTRATE JUDGE HORNSBY

**MEMORANDUM ORDER**

Defendants removed this case based on an assertion of federal question jurisdiction arising from Plaintiff's assertion that Defendants violated his rights to "procedural due process." Plaintiff, on the day after the case was removed, filed an amended complaint and clarified in paragraph 2 that all of his claims against all parties are asserted under Louisiana statutes and the Louisiana Constitution. Plaintiff specifically stated that he "asserts no claims under federal law."

Plaintiff later filed a Motion to Remand (Doc. 8) on the grounds that the federal court lacks subject matter jurisdiction. Counsel for Defendants has advised the court that he does not oppose the motion. If the court lacks jurisdiction as asserted in Plaintiff's motion, remand is required by 28 U.S.C. § 1447(c). The court need not resolve whether a federal question was presented by the original petition and afforded jurisdiction; a discretionary remand pursuant to 28 U.S.C. § 1367(c)(3) is warranted – assuming there was a basis for the exercise of subject matter jurisdiction – because the amended complaint removed the only potential federal claim early in the litigation. Accordingly, the **Motion to Remand (Doc. 8)**

is **granted** and this case is hereby **remanded** to the **First Judicial District Court, Caddo Parish, Louisiana.**

THUS DONE AND SIGNED at Shreveport, Louisiana, this 11th day of September, 2006.

  
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MARK L. HORNSBY  
UNITED STATES MAGISTRATE JUDGE